

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF OKLAHOMA

ORDER

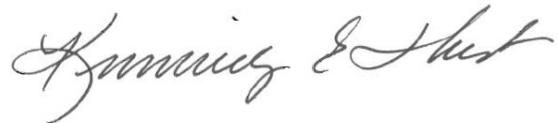
This matter comes before the Court on Defendant's Fourth Motion in Limine (Docket Entry #144). Defendant seeks to preclude Plaintiff from introducing evidence or argument that the consist of the locomotive at issue in his case was the source of any negligence on Defendant's part or that the lack of a distributive power unit on the train was in some way negligent. Plaintiff states that she does not intend to introduce such evidence at trial but does want the ability to tell the jury certain contextual facts concerning the train such as the load it was hauling.

This Court does not perceive a suspicious motive from Defendant in seeking to exclude the evidence, although it is probably unnecessary. The introduction of the consist and make up of the train at the time of the incident forming the subject matter of this action would not be prohibited but a suggestion that those facts amount to or contribute to any negligence would not be

permitted without a foundation.

IT IS THEREFORE ORDERED that Defendant's Fourth Motion in Limine (Docket Entry #144) is hereby **GRANTED**, in that the consist of the train and the lack of a distributive power unit should not be suggested to be negligent without Plaintiff first providing a foundation for such a position.

IT IS SO ORDERED this 30th day of March, 2021.



KIMBERLY E. WEST
UNITED STATES MAGISTRATE JUDGE